

United States
Circuit Court of Appeals

For the Ninth Circuit.

G. D. COLLINS and S. S. MILLARD,
Appellants,

vs.

WILLIAM I. TRAEGER, as Sheriff of the County
of Los Angeles, State of California,
Appellee.

Transcript of Record.

UPON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA, SOUTHERN DIVISION.

FILED

JUL 27 1920

PAUL P. O'BRIEN,
CLERK

United States
Circuit Court of Appeals
For the Ninth Circuit.

G. D. COLLINS and S. S. MILLARD,
Appellants,

vs.

WILLIAM I. TRAEGER, as Sheriff of the County
of Los Angeles, State of California,
Appellee.

Transcript of Record.

UPON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA, SOUTHERN DIVISION.

INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	Page
Affidavit of Leon E. Goetz, in Aid of the Extradition of Elid Stanitch, <i>alias</i> S. S. Mil-lard, Defendant and Fugitive from Justice	41
Affidavit of Service of Notice of Appeal and of Assignment of Errors and of Citation....	56
Answer of Petitioner G. D. Collins to Return to Writ of Habeas Corpus.....	19
Assignment of Errors.....	58
Bill of Exceptions	29
Bond for Costs on Appeal.....	62
Certificate of Clerk U. S. District Court to Record on Appeal	66
Citation	65
Complaint and Petition for the Writ of Habeas Corpus	1
Hearing	53
Minutes of Court—April 25, 1928—Hearing..	53
Names and Addresses of Attorneys of Record..	1
Notice of Appeal	55
Order Granting Writ of Habeas Corpus.....	6
Petitioner's Memorandum of Points and Authorities	7

	Index.	Page
Praecipe for Transcript of Record on Appeal..		64
Return to Writ of Habeas Corpus		11
TESTIMONY ON BEHALF OF DEFENDANT:		
MILLARD, S. S.....		46
Writ of Habeas Corpus		8

NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD.

For Appellants:

G. D. COLLINS, 506 Claus Spreckles Building,
703 Market Street, San Francisco, California.

ISADORE MORRIS, Esq., Los Angeles, California.

For Appellee:

A. S. KEYES, District Attorney of Los Angeles County, California; and

TRACY C. BECKER, Deputy District Attorney of Los Angeles County, California.

In the District Court of the United States in and
for the Southern District of California.

In the Matter of the Petition of G. D. COLLINS
for the Writ of Habeas Corpus in Behalf of
S. S. MILLARD.

COMPLAINT AND PETITION FOR THE
WRIT OF HABEAS CORPUS.

To the Honorable the District Court of the United
States in and for the Southern District of California
and the Honorable WM. P. JAMES,
One of the Judges of Said Court:

I.

This the complaint and petition of G. D. Collins
respectfully shows to you that he is a citizen of the

United States and of the State of California. That he presents this complaint and petition in behalf of the said S. S. Millard, with his consent and at his request. That said Millard does not make and verify the petition as he is imprisoned in the county jail of the county of Los Angeles, State of California, and for that reason is unable to do so. That the necessary delay in an attempt to have him do so might entail his possible removal beyond the jurisdiction of the court before he could sign and verify the petition.

That said Millard is now imprisoned and restrained of his liberty by William I. Traeger, the sheriff of said county of Los Angeles, and in the county jail in the city of Los Angeles in said county, under and by virtue of certain void interstate rendition proceedings and by the alleged authority of a void warrant of rendition heretofore issued by the Governor of the State of California or requisition of the Governor of the State of Illinois and against the said Millard.

II.

That said S. S. Millard is thus imprisoned and held in said custody under color of the authority of the Constitution and laws of the United States, relating to the return of fugitives from justice to the state from which they fled. [1*]

That said sheriff claims to hold said Millard in said custody and imprisonment for the purpose of his being transported to said State of Illinois under

*Page-number appearing at the foot of page of original certified Transcript of Record.

and by virtue of said warrant and process. That a copy of said warrant has been requested and refused; that the legal fees for said copy were tendered prior to such refusal. That there is reason to fear that said prisoner will be removed from the jurisdiction of said court while these proceedings for his discharge on habeas corpus are pending.

III.

Your petitioner avers that said imprisonment is illegal and in violation of the Constitution and laws of the United States, for the following reasons, viz. :

1. That the accusatory affidavit on which said rendition proceeding is solely based does not charge the said Millard with treason, felony or other crime nor was such affidavit on file in any court at the time of the issuance of said requisition and at the time of the issuance of said warrant of rendition nor subsequent thereto. That there is no indictment found or filed against the said Millard.

2. That the said Millard did not flee from justice in said State of Illinois nor take refuge in said State of California and is not a fugitive from justice and committed no crime in said State of Illinois.

3. That there is no affidavit made before a magistrate of said State of Illinois, charging said Millard with having committed treason, felony or other crime. That the only accusatory affidavit in said rendition proceedings and on which said warrant of rendition is solely based is one made before one of the Judges of the Municipal Court of Chicago. That a Judge of the said Municipal Court of Chi-

icago is not a magistrate, in that he is denied by the laws of Illinois the power to issue a warrant of arrest.

4. That said interstate rendition proceedings have been instituted in bad faith and in perversion of the Constitution and laws of the United States, in that as your petitioner is informed [2] and verily believes and upon his information and belief alleges that said accusatory affidavit was made and sworn to and said interstate rendition proceedings were instituted by one, Leon E. Goetz, the accuser of said Millard, solely for the purpose of extorting in behalf of himself and the U. S. Health Film, Inc., a corporation, and from said Millard by means of said accusation certain negatives and prints of certain movie pictures and claimed by said Goetz and said corporation under two certain contracts in writing, of date November 4th, 1927, executed by said corporation and said Millard. That said Millard contends and claims in said suit that said Goetz and said corporation have no right to said negatives and prints nor any of them, and that said corporation is in default in the performance of the provisions in said contracts on its part to be performed. Your petitioner avers that said contracts and matters are involved in the issues presented in said suit, to wit: in a certain suit in equity in the United States District Court, Northern District of Illinois, Eastern Division, commenced by said Millard as plaintiff on the 6th day of March, 1928, and against the said U. S. Health Films, Inc., defendant, the corporation named in said accusation. That said

suit was filed in said United States District Court prior to the making of said accusatory affidavit and prior to said interstate rendition proceedings. That said suit in equity is still pending in said United States District Court, awaiting trial and decision therein. That said accusatory affidavit is in fraud and in violation of the jurisdiction of said United States District Court, Northern District of Illinois, Eastern Division, in said case.

5. That upon the facts herein averred the said imprisonment of said Millard is in violation of section 2 of Article IV of the Constitution of the United States and of the "due process of law" clause in the Fourteenth Amendment of the said Constitution and in violation of section 5278 of the Revised Statutes of the United States. [3]

IV.

WHEREFORE your petitioner prays that the writ of habeas corpus be ordered to issue out of and under the seal of the said United States District Court in and for the Southern District of California, directed and addressed to the said William I. Traeger, the sheriff of said county of Los Angeles, State of California, commanding him to produce the said S. S. Millard before your Honorable Court at a time and place in said writ designated then and there to do whatsoever shall be ordered by the Court concerning him. That upon the hearing of the case on return to the said writ of habeas corpus, it be by the Court adjudged that said imprisonment of said Millard is illegal and in violation of the Constitution and laws of the United States and that

said Millard be ordered discharged therefrom and restored to his liberty. That in the meantime and pending said habeas corpus proceedings, the said Millard be admitted to bail.

G. D. COLLINS,

Petitioner *in pro. per.* [4]

United States of America,
Southern District of California,
City and County of Los Angeles,—ss.

G. D. Collins, being duly sworn, deposes and says that he is the petitioner herein; that he has read the foregoing petition and complaint and knows the contents thereof; that the same is true of his own knowledge except as to matters therein stated on his information or belief; that as to those matters he believes it to be true.

G. D. COLLINS.

Subscribed and sworn to before me this 17th day of April, 1928.

[Seal] MYRTLE V. HITCHCOCK,
Notary Public in and for the County of Los Angeles, State of California.

My commission expires March 31, 1929. [5]

ORDER GRANTING WRIT OF HABEAS CORPUS.

Upon the foregoing complaint and petition and good cause appearing therefrom, it is ordered that the writ of habeas corpus issue herein and out of and under the seal of the United States District Court, Southern District of California, as prayed

for in said complaint and petition and returnable before said court on the 20th day of April, 1928, at 10 o'clock A. M. on that day, and at the courtroom of said court in the City of Los Angeles, County of Los Angeles, State of California.

Dated this 17th day of April, 1928, at said City of Los Angeles.

WM. P. JAMES,
United States District Judge. [6]

PETITIONER'S MEMORANDUM OF POINTS
AND AUTHORITIES.

I.

In support of the point that the United States *District will* grant the writ of habeas corpus in interstate rendition cases, we cite:

Ex parte Graham, 216 Fed. 813;

Ex parte Morgan, 20 Fed. 298, 302.

II.

That the accusatory affidavit in cases where there is no indictment, is jurisdictional, and essential to the validity of interstate rendition proceedings, we cite:

Ex parte Spears, 88 Cal. 642, 643;

Ex parte Smith, 3 McLean, 121;

2 Moore on Extradition, sec. 555.

III.

That it is essential the accusatory affidavit be made before a magistrate, we cite:

Rev. Stats. U. S., sec. 5278.

That the Judge of the Chicago Municipal Court

is not a magistrate because under the laws of Illinois he has no authority to issue the warrant of arrest, we cite:

25 Corpus Juris, 264.

IV.

That interstate rendition proceedings are void if not *bona fide* or if in perversion or in fraud of the law, we cite:

Ex parte Slauson, 73 Fed. 666;

In re Cannon, 47 Mich. 481, 486, 487;

Tenn. vs. Jackson, 36 Fed. 258;

Church on Habeas Corpus (2d ed.), pg. 829
and note;

25 Corpus Juris 257.

V.

The law is well settled that the accused has a right to show on writ of habeas corpus that he is not a fugitive from justice.

Respectfully submitted,

G. D. COLLINS,

Petitioner. [7]

[Title of Court and Cause.]

WRIT OF HABEAS CORPUS.

United States of America,
Southern District of California,—ss.

The President of the United States of America to
William I. Traeger, the Sheriff of the County
of Los Angeles, State of California, GREET-
ING:

You are by this writ commanded that you have

the body of S. S. Millard by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever named the said S. S. Millard shall be called or charged, whether by the said name of S. S. Millard or by the name of *Elid Stanich*, or any other name, and bring him before the Honorable William P. James, Judge of the said United States District Court, at the courtroom thereof in the United States Postoffice Building, in the City of Los Angeles, on the 20th day of April, 1928, at 10 o'clock A. M. on that day, to do and receive what shall then and there be considered and ordered by said Court, concerning the said S. S. Millard.

AND HAVE YOU THEN AND THERE THIS WRIT.

WITNESS, Hon. WILLIAM P. JAMES, Judge of the United States District Court, Southern District of California, this 17th day of April, 1928.

ATTEST my hand and the seal of said court, the day and year last above written.

[Seal]

R. S. ZIMMERMAN,
Clerk.

By Edmund L. Smith,
Deputy. [8]

RETURN ON SERVICE OF WRIT.

United States of America,
Southern District of California,—ss.

I hereby certify and return that I served the annexed writ of habeas corpus on the therein named W. I. Treager, Sheriff of Los Angeles

County, by handing to and leaving a true and correct copy thereof with Eugene Biscailuz, Under-sheriff, personally at Los Angeles in said District, on the 17th day of April, 1928 A. D.

A. C. SITTEL,
U. S. Marshal.
By G. O. White,
Deputy.

[Endorsed]: Marshal's Crim. Doc. No. 22,954. In the District Court of the United States in and for the Southern District of California. In the Matter of the Petition of G. D. Collins for the Writ of Habeas Corpus in Behalf of S. S. Millard. Writ of Habeas Corpus. Filed Apr. 17, 1928. R. S. Zimmerman, Clerk. By B. B. Hansen, Deputy Clerk. [9]

[Endorsed]: 9094-J.—Cr. In the District Court of the United States in and for the Southern District of California. In the Matter of the Petition of G. D. Collins for the Writ of Habeas Corpus in Behalf of S. S. Millard. Complaint and Petition for the Writ of Habeas Corpus. Filed Apr. 17, 1928. R. S. Zimmerman, Clerk. By Edmund L. Smith, Deputy Clerk. G. D. Collins, 506 Claus Spreckles Bldg., 703 Market St., San Francisco, Calif. [10]

[Title of Court and Cause.]

RETURN TO WRIT OF HABEAS CORPUS.

To the Honorable District Court of the United States, in and for the Southern District of California:

I, William I. Traeger, Sheriff of the County of Los Angeles, State of California, do hereby make return to the writ of habeas corpus herein: That said writ was served on me on the 17th day of April, 1928, by serving upon me a copy thereof, which copy is hereto attached and made a part of this return.

That no petition for said writ, or any copy thereof in this proceeding, has ever been served upon me, nor has any writ, or any copy of such petition, been served upon the District Attorney of Los Angeles County.

That said S. S. Millard is in my custody, under and by virtue of a warrant issued out of and under the seal of the Municipal Court of the City of Los Angeles, a copy of which warrant is hereto attached and made a part hereof, charging the said Millard with being a fugitive from *the* justice of the State of Illinois; that, as I am informed and verily believe, a proper rendition warrant has been issued by the Governor of the State of California, after a full hearing upon the merits, for the rendition of the said Millard to the State Agent of the State of Illinois, for extradition to said state from the crime of feloniously and fraudulently obtaining from the

United States Health Films, Inc., a corporation, a sum of Twenty-five *Thousand* (\$25,000.00) in money of the United States of America, by the means and use of the confidence game, as more fully appears by said rendition warrant, the original of which I will produce for the inspection of this Court, on the hearing of this writ. A copy of said rendition warrant is also herewith attached.

[11]

I further return that prior to the issue and service upon me of the writ of habeas corpus, herein, a writ of habeas corpus had been obtained by the petitioner, and an order of the Superior Court of the State of California, in and for Los Angeles County, based upon a petition therefor alleging substantially the same facts and grounds for issuing such writ, as those which are set forth in the petition herein now on file in the office of the Clerk of this court, which said writ and habeas corpus proceeding in said State Court was in full force and effect and was pending at the time petitioner's application for this writ was verified and presented to this Honorable Court, and to the Honorable William P. James, the Judge thereof, who granted the order for this writ, and which said writ and proceeding in such State Court was returnable and set for a hearing in said State Court on said 17th day of April, 1928, at two o'clock P. M. of said day.

I herewith produce the body of the said S. S. Millard, and respectfully pray that said writ be dismissed, and that an order be granted remanding the said Elid Stanitch, *alias* S. S. Millard to the

custody of Robert E. Calkins, State Agent of the State of Illinois, as provided in and by said rendition warrant of the Governor of the State of California.

WILLIAM I. TRAEGER,
Sheriff, Los Angeles County.

By ASA KEYES,
District Attorney.

TRACY CHATFIELD BECKER,
TRACY CHATFIELD BECKER,
Deputy District Attorney. [12]

[Title of Court and Cause.]

WRIT OF HABEAS CORPUS.

(In ink: "Copy.")

United States of America,
Southern District of California,—ss.

The President of the United States of America to
William I. Traeger, the Sheriff of the County
of Los Angeles, State of California, GREET-
ING:

You are by this writ commanded that you have the body of S. S. Millard by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever named the said S. S. Millard shall be called or charged, whether by the said name of S. S. Millard or by the name of Elid *Stanich*, or any other name, and bring him before the Honorable William P. James, Judge of the said United States District Court, at the courtroom thereof in the United States Post Office Building, in the City of Los

Angeles, on the 20th day of April, 1928, at 10 o'clock A. M. on that day, to do and receive what shall then and there be considered and ordered by said Court, concerning the said S. S. Millard.

AND HAVE YOU THEN AND THERE THIS WRIT.

WITNESS, Hon. WILLIAM P. JAMES, Judge of the United States District Court, Southern District of California, this 17th day of April, 1928.

ATTEST my hand and the seal of said court the day and year last above written.

[Seal]

R. S. ZIMMERMAN,
Clerk.

By Edmund L. Smith,
Deputy. [13]

(Written in ink on inside of cover—bottom of page—is the following:)

Refer to Chief Clerk Calvert for return

WM. I. TRAEGER,
Sheriff.

By E. W. Biscailuz,
Under-sheriff.

Received in Main Office, Sheriff's Dept., at 3:20 P. M., April 17, 1928.

J. H. NASH,
Deputy.

[Endorsed]: In the District Court of the United States, in and for the Southern District of California. In the Matter of the Petition of C. D. Collins for the Writ of Habeas Corpus in Behalf of S. S. Millard. Writ of Habeas Corpus.

(In ink the word: "Copy.") [14]

Copy.

In the Municipal Court of the City of Los Angeles,
County of Los Angeles, State of California.

THE PEOPLE OF THE STATE CALIFORNIA,
Plaintiff,

vs.

ELID STANITCH, *alias* S. S. MILLARD,
Defendant.

WARRANT OF ARREST.

The People of the State of California, to Any
Sheriff, Constable, Marshal or Policeman in the
County of Los Angeles, GREETING:

Information on oath having been this day laid
before me by J. P. Filkas that the crime of obtain-
ing money by use of confidence game has been com-
mitted by Elid Stanitch, *alias* S. S. Millard, in the
county of Cook in the State of Illinois on or about
the 23d day of March, 1928, and the said Elid Atan-
itch having been duly and regularly charged with
the said crime at and in the said county of Cook,
State of Illinois, before a duly and regularly
elected, qualified and acting Judge of the Municipal
Court of the City of Chicago in and for said County
of Cook, State of Illinois, and the said magistrate
having then and there duly and regularly issued
his warrant for the arrest of the said Elid Stanitch
charging the said Elid Stanitch with the said of-
fense, and that the said offense is now pending be-
fore said magistrate and undetermined, and that a

warrant was duly and regularly issued by said magistrate upon said charge for arrest and apprehension of the said Elid Stanitch and placed in the hands of a proper officer for service, and it further appearing to me by complaint on oath herein that before the issuance of the said warrant of arrest as aforesaid by the said magistrate in the County of Cook, State of Illinois, as aforesaid and before the service of the said warrant that the said Elid Atanitch did leave the said State of Illinois and departed therefrom to the State of California, and that he is now in the City of Los Angeles, County of Los Angeles, State of California.

Therefore you are hereby commanded forthwith to arrest the above-named Elid Stanitch and bring him before me forthwith at my office [15] in the City of Los Angeles, County of Los Angeles, State of California, and in case of my absence or inability to act, before the nearest and most accessible magistrate in Los Angeles County. Dated at Los Angeles City Township, County of Los Angeles, State of California, at the hour of — o'clock P. M., this 13th day of April, 1928.

[Seal]

W. S. BAIRD,

Judge of the Municipal Court of the City of Los Angeles, County of Los Angeles, State of California.

Bail \$25,000.00.

W. S. B. [16]

Copy.

STATE OF CALIFORNIA.

EXECUTIVE DEPARTMENT.

The People of the State of California, to Any Sheriff, Constable, Marshal, or Policeman of This State, GREETING:

WHEREAS, it has been represented to me by the Governor of the State of Illinois that Elid Stanitch, *alias* S. S. Millard, stands charged with the crime of confidence game committed in the County of Cook, in said State, and that he fled from the justice of that State, and has taken refuge in the State of California, and the said Governor of Illinois having, in pursuance of the Constitution and Laws of the United States, demanded of me that I shall cause the said Elid Stanitch, *alias* S. S. Millard, to be arrested and delivered to Robert E. Calkins, who is authorized to receive him into his custody and convey him back to the said State of Illinois,

AND WHEREAS, the said representation and demand is accompanied by a copy of complaint, warrant of arrest, certificate of Judge and clerk, affidavit certified by the Governor of the State of Illinois, to be authentic, whereby the said Elid Stanitch, *alias* S. S. Millard is charged with said crime; and it satisfactorily appearing that the representations of said Governor are true, and that said Elid *Stantich*, *alias* S. S. Millard is a fugitive from the justice of the aforesaid State;

YOU ARE, THEREFORE, required to arrest and secure the said Elid Stanitch, *alias* S. S. Millard, wherever he may be found within this State, and to deliver him into the custody of said Robert E. Calkins to be taken back to the State from which he fled, pursuant to the said requisition, he, the said Robert E. Calkins, defraying all costs and expenses incurred in the arrest and securing of the said fugitive.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State to be affixed, this the 11th day of [17] April, in the year of our Lord one thousand nine hundred and twenty-eight.

C. C. YOUNG,

Governor of the State of California.

By the Governor:

[Seal]

FRANK C. JORDAN,

Secretary of the State of California.

By FRANK H. CORY,

Deputy. [18]

[Endorsed]: No. 9094-J.—Cr. In the District Court of the United States in and for the Southern District of California. In the Matter of the Application of G. D. Collins in Behalf of S. S. Millard, for a Writ of Habeas Corpus. Return to Writ of Habeas Corpus Filed Apr. 20, 1928. R. S. Zimmerman, Clerk. By Edmund L. Smith, Deputy Clerk. [19]

[Title of Court and Cause.]

ANSWER OF PETITIONER G. D. COLLINS
TO RETURN TO WRIT OF HABEAS COR-
PUS.

To the Honorable the District Court of the United
States in and for the Southern District of Cali-
fornia.

Comes now the said D. G. Collins, the petitioner
in the above-entitled matter, and makes answer to
the return to the writ of habeas corpus, said return
having been heretofore filed therein by William I.
Traeger, the Sheriff of the County of Los Angeles,
State of California, to wit:

I.

Alleges that the original writ of habeas corpus
issued herein on the 17th day of April, 1928, out
of and under the seal of the said United States Dis-
trict Court, was delivered by this petitioner to the
United States Marshal of said Southern District of
California, with instructions to serve the original
writ upon said Sheriff and make return on a copy
thereof. That thereupon this petitioner delivered
to the United States Marshal aforesaid, the said
original writ of habeas corpus and a true and cor-
rect copy of the same, upon which copy the return
of service was to be made by the said United States
Marshal. That whether or not the said original
writ of habeas corpus was served by the said United
States Marshal is immaterial herein, in view of the
fact that said return has been made and filed in said

matter to said original writ of habeas corpus, and no motion has been made or presented to said United States District Court to quash the service of the writ.

II.

The said petitioner in further answer to said return avers that if no copy of the petition for said writ has been served upon the said Sheriff, it was an inadvertence of no consequence, in that said return has been made and no motion presented by the said Sheriff to quash said writ, nor the [20] service of the writ, because of any omission to serve a copy of said petition. That your petitioner has served upon the attorney herein for said Sheriff a true and correct copy of said petition for said writ of habeas corpus. That your petitioner is informed and believes and therefore alleges the fact to be that prior to making said return to said writ, the attorney for said sheriff had knowledge of the contents of the original petition on file herein. Petitioner denies that the said sheriff imprisons or detains in custody the said Millard under the warrant of arrest issued by a Judge of the Municipal Court of Los Angeles and alleges that the said sheriff detains said Millard in his custody under and by virtue of the warrant of rendition of the Governor of the state of California.

III.

Avers that no hearing upon the merits of the case was at any time had by the Governor of the State of California. That an informal hearing, but not upon the merits of the case, was had be-

fore the Executive Secretary of the said Governor. That certain legal objections were stated to said Executive Secretary against the issuance of a warrant of extradition, and in overruling the same, he stated that he did so in order that the courts might pass upon the objections.

IV.

In further answer to said return to said writ of habeas corpus, the said petitioner denies that a prior writ of habeas corpus has been obtained by him or ordered by the Superior Court of the State of California, in and for the County of Los Angeles or by any other court, and based upon a petition alleging the same or substantially the same facts or grounds for issuing such writ as those which are set forth in the petition on file herein, in the office of the clerk of the said United States District Court, and in that behalf the petitioner avers the fact to be that the petition for the said writ of habeas corpus, in said Superior Court and the writ issued thereon have no reference or relation whatever to the custody or imprisonment of the said S. S. Millard, by the said sheriff of said County of Los Angeles but on the contrary have reference entirely to another and [21] entirely different custody and an entirely different restraint of liberty, not involved in the petition filed herein in said United States District Court, nor involved in the writ of habeas corpus issued by said Court. That on the said 17th day of April, 1921, the said Superior Court, upon motion of this petitioner, dismissed the said petition on file therein, but without

prejudice, after petitioner had stated to said Superior Court that the imprisonment and the restraint of the liberty of said S. S. Mallard was *then* altogether different from that stated in said petition on file in said Superior Court, and in the writ of habeas corpus theretofore issued in that court, and that such custody had since the granting of such writ, been transferred to the Sheriff of said county. That at the time of the filing of the petition for a writ of habeas corpus in the said United States District Court, there was not and never had been prior thereto any application or petition for a writ of habeas corpus in any court respecting the imprisonment and detention in custody of the said S. S. Mallard, by said Sheriff, and for that reason no reference was made in the petition filed in said United States District Court to any prior writ of habeas corpus, nor to any prior petition for a writ of habeas corpus, in said Superior Court, nor is there any rule of the said United States District Court requiring in a petition for a writ of habeas corpus any reference to a prior petition for, or writ of habeas corpus in said Superior Court or in any State Court where the latter petition and writ have no relation to the same custody and imprisonment specified in the petition filed in said United States District Court.

V.

That said petitioner avers that no warrant for the arrest of the said S. S. Mallard (also known as Elid Stanitch) nor for the arrest of the said Elid Stanitch, was ever issued by a Judge of the Mu-

nicipal Court of the City of Chicago, for the County of Cook, State of Illinois. That the only warrant of arrest issued against the said S. S. Millard (also known as Elid Stanitch) is the one appearing in the extradition or rendition papers [22] and issued by the Clerk of the Municipal Court of the said City of Chicago. That there is no "offense" now pending or that ever was pending before a Judge of the said Municipal Court of the City of Chicago, as contradistinguished from the said Municipal Court, nor before that court.

VI.

That the petitioner herein is informed and believes, and upon his information and belief alleges, that there is no such offense or crime in the said State of Illinois as that known or designated, "the crime of confidence game" irrespective of whether any money or property had been obtained thereby. That for this reason the petitioner avers that the designation of the crime in the rendition or extradition warrant issued by the Governor of the State of California on the 11th day of April, 1928, and a copy of which warrant is annexed to said return to wit, the designation of the crime as being that of "confidence game," irrespective of whether any money or property was obtained thereby, is not a designation or specification of any crime known to the laws of the State of Illinois.

VII.

The petitioner avers that the restraint of the liberty of said S. S. Millard and the imprisonment of the said S. S. Millard by the said Sheriff of the

said County of Los Angeles, State of California, alleged and referred to in said return of said Sheriff on file herein, are in violation of Section 2 of Article IV of the Constitution of the United States, and of the due process of law clause in the Fourteenth Amendment of the said Constitution, and in violation of Section 5278 of Revised Statutes of United States, in the following respects, viz.:

(1) That the accusation, affidavit and complaint upon which said extradition or rendition warrant of the Governor of California is based does not charge the said S. S. Millard or Elid Stanitch with treason, felony or other crime. That as the petitioner is informed and verily believes, the said accusation, affidavit and complaint are not on file in said Municipal Court and were not on file therein at the time the said warrant of extradition was issued by the Governor of [23] of California, nor at the time the requisition was made by the Governor of Illinois, and that the original of said accusation, affidavit and complaint are not now in said State of Illinois, but are in the said State of California, as the petitioner is informed and verily believes and therefore alleges is the fact.

(2) The petitioner avers upon his information and belief, and therefore alleges the fact to be that the said S. S. Millard, also known as Elid Stanitch, did not flee from justice in the said State of Illinois, nor take refuge in said State of California, and is not a fugitive from justice.

(3) That the charge made against the said S. S. Millard or Elid Stanitch, in the said accusation,

affidavit and complaint is therein specified to be based on Section 98, of Paragraph 256, Chapter 38 of the Revised Statutes of Illinois. That said Section 98 is in violation of the Fourteenth Amendment of the Constitution of the United States, in that in omitting to define the crime, it attempts to create, and in omitting to specify the essential elements of the crime, it operates to deprive the accused of his liberty without due process of law, and denies him the equal protection of the laws,

(4) That the said extradition or rendition proceedings have been instituted in bad faith and in fraud and perversion of the law, pertaining thereto, in the particulars alleged in the petition on file herein, and for the reasons in said petition stated.

(5) That a Judge of the Municipal Court in the City of Chicago is not a magistrate as required by Section 5278 of the Revised Statutes of the United States, in that by section 50c, paragraph 442 of Chapter 37 of the Illinois Revised Statutes all proceedings in a criminal case in said Municipal Court in the City of Chicago are expressly required to be "proceedings in Court instead of proceeding before a Judge thereof" and so far as the petitioner is informed, there is no statute or other law in Illinois constituting a Judge of the Municipal Court of Chicago, a magistrate. That by section 2, Paragraph 390, subdivision VI of Chapter 37 of the Illinois Revised [24] Statutes, the said Municipal Court in Chicago, as a Court and not a judge of said court has jurisdiction of all proceedings for the arrest, examination, committment and bail of

persons charged with criminal offenses, and no Judge thereof has authority as such to receive or file accusations of crime, nor to issue a warrant of arrest.

(6) The said complaint, affidavit and accusation are also void because the same do not conform to the requirements of section 2, paragraph 687, Chapter 38, of the Revised Statutes of Illinois, in that neither said affidavit, complaint or accusation contains a statement of the offense charged, nor statement that the complainant has just and reasonable grounds to believe that the accused committed the offense. The petitioner avers that said extradition or rendition proceedings are not based on an indictment and as he is informed and believes, no indictment has ever been found or filed against the said S. S. Millard.

VIII.

That for the reasons and upon the grounds in this answer stated, and for the reasons and upon the grounds stated in the petition on file herein, the said warrant of extradition or rendition issued by the Governor of the State of California, is absolutely void, and in violation of section 2, of Article IV of the Constitution of the United States, and in violation of the Fourteenth Amendment of said Constitution, and in violation of section 5278 of the Revised Statutes of the United States.

IX.

That the warrant of arrest issued by W. S. Baird, Judge of the Municipal Court of the City of Los Angeles, a copy of which is annexed to said return,

is void on the face of it, for the following reasons, viz.:

(1) That the same does not specify any crime known to the laws of the State of Illinois.

(2) That according to the law of the State of Illinois, no Judge of the Municipal Court of Chicago, as such Judge, is a magistrate in the said State of Illinois. [25]

(3) That no "offense" is now pending or ever was pending before a Judge of said Municipal Court of the City of Chicago.

(4) That no warrant was duly or regularly, or at all, issued by any magistrate of the said State of Illinois, for the arrest or apprehension of the said S. S. Millard, or Elid Stanitch, nor placed in the hands of a proper or other *office* for service.

X.

WHEREFORE, the petitioner G. D. Collins, prays that the said imprisonment and restraint of the liberty of the said S. S. Mallard, by the said Sheriff of the County of Los Angeles, State of California, be by the said United States District Court, adjudged to be unlawful and in violation of the Constitution and laws of the United States, in the particulars hereinbefore specified, and that therefore, the said S. S. Millard, be by said Court ordered discharged from said imprisonment and restored to his liberty.

G. D. COLLINS,
Petitioner *in pro. per.*

United States of America,
 Southern District of California,
 County of Los Angeles,—ss.

G. D. Collins, being duly sworn, deposes and says: That he is the petitioner herein; that he has read the foregoing answer and knows the contents thereof; that the same is true of his own knowledge except as to the matters therein stated upon his information or belief; that as to those matters he believes it to be true.

G. D. COLLINS.

Subscribed and sworn to before me this 21st day of April, 1928.

[Seal] ANNA MAY KELLY,
 Notary Public in and for the County of Los Angeles, State of California.

My commission expires October 15, 1931.

[Endorsed]: No. 9094—J.—Cr. In the District Court of the United States, in and for the Southern District of California. In the Matter [26] of the Petition of G. D. Collins, in Behalf of S. S. Millard for a Writ of Habeas Corpus. Answer of Petitioner G. D. Collins to Return to Writ of Habeas Corpus. Filed Apr. 21, 1928. R. S. Zimmerman, Clerk. By Murray E. Wire, Deputy Clerk. [27]

[Title of Court and Cause.]

BILL OF EXCEPTIONS.

I.

BE IT REMEMBERED, that heretofore, to wit, on the 25th day of April, 1928, the above-entitled matter came on regularly before said court for hearing upon the petition for the writ of habeas corpus and on the writ of habeas corpus and on the return thereto and the answer to the return, all of which were previously and are now on file herein. That at the hearing the petitioner appeared *in propria personam* and the prisoner S. S. Millard was represented by his counsel, Isador Morris, Esq. The respondent William I. Traeger, the sheriff of the County of Los Angeles, State of California, was represented at the hearing by Asa Keyes, Esq., the district attorney of said County of Los Angeles, and by Tracy Chatfield Becker, Esq., deputy district attorney. That thereupon the said petition, writ of habeas corpus, return and answer to the return were submitted to the court and the respondent produced before the Court the original warrant of rendition issued by the Governor of California on the 11th day of April, 1928, a copy of which is attached to said return, and the said original warrant of rendition was then read in evidence before the Court.

That it appeared to the Court that a copy of the said petition was served on respondent prior to the hearing and that at the filing herein of said

petition, no application for the writ of habeas corpus had been made in, nor had any such writ issued out of any State court respecting the custody or imprisonment of said Millard by said sheriff. That there was offered in evidence by respondent and received in evidence by the Court the following papers, viz.: [28]

State of California,

Governor's Office,

Sacramento.

(Cut of

The Great Seal of

The State of California.)

C. C. YOUNG,

Governor.

I, C. C. Young, Governor of the State of California, do hereby certify that I have carefully compared the transcript, to which this certificate is attached, with the record on file in my office of which it purports to be a copy, and that the same is a full, true and correct copy thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of California to be affixed hereto this 10th day of April, 1928.

C. C. YOUNG,

Governor.

[Impression Seal]

Attest: FRANK C. JORDAN,
Secretary of State.

By ROBERT V. JORDAN,
Deputy. [29]

STATE OF ILLINOIS.

EXECUTIVE DEPARTMENT.

The Governor of the State of Illinois, to the Governor of State of California.

WHEREAS, It appears by the papers required by the statutes of the United States which are hereunto annexed, and which I certify to be authentic and duly authenticated in accordance with the laws of this State, that Elid Stanitch, *alias* S. S. Millard, stands charged with the crime of confidence game, which I certify to be a crime under the Laws of this State, committed in the County of Cook in this State, and it having been represented to me that he has fled from the justice of this State and has taken refuge in the State of California,

NOW, THEREFORE, pursuant to the provisions of the Constitution and the laws of the United States in such case made and provided, I do hereby require that the said Elid Stanitch, *alias* S. S. Millard, be apprehended and delivered to Robert E. Calkins, who is hereby authorized to receive and convey HIM to the State of Illinois, there to be dealt with according to law.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal

of State, at the Capitol in the City of Springfield, this 4th day of April, A. D. 1928.

[Impression Seal.]

LEN SMALL.

[Seal of the State of Illinois, Aug. 26th, 1919.]

By the Governor:

LOUIS L. EMMERSON,

Secretary of State. [30]

(49954-2M)

To His Excellency, LEN SMALL, Governor of Illinois:

Your petitioner, State's Attorney for the County of Cook, State of Illinois, would represent unto your Excellency that Elid Stanitch, *alias* S. S. Millard, stands charged by the accompanying certified copy of Complaint, Warrant and Affidavit on file Municipal Court, Chicago, Ills., with the crime of confidence game committed in the County of Cook and State of Illinois, on or about the 4th day of November, 1927.

That on or about the 4th day of November, 1927, the said Elid Stanitch, *alias* S. S. Millard, fled from the State of Illinois, and is now, as your petitioner verily believes, in the County of Los Angeles and State of California, fugitive from the justice of this State, and the grounds of such belief are as follows: Telegram received from James E. Davis, Chief of Police at Los Angeles, California, stating the said Elid Stanitch, *alias* S. S. Millard, is in custody there.

WHEREFORE, your petitioner prays that a requisition may issue upon the Governor of the said State of California and that Robert E. Calkins,

of the city of Chicago, County of Cook and State of Illinois, may be appointed messenger of the State of Illinois, to go after, receive and return the said fugitive to the County of Cook, State of Illinois, for trial. Who is a fit and proper person and who has no personal interest in the outcome of the case.

Your petitioner further certifies that in his opinion the ends of public justice require that the said Elid Stanitch, *alias* S. S. Millard, be brought to this State for trial at the public expense, that he believes he has sufficient evidence to secure his or her conviction.

ROBERT E. CROWE,

States Attorney for Cook County, Chicago, Illinois.

I, Leon E. Goetz, first being duly sworn, do solemnly declare [31] that the facts set forth in the foregoing petition are true, and that a requisition for the above-named fugitive is not sought for the purpose of collecting a debt, to allow any person to travel at the expense of the State, or to answer any private end whatever, and shall not be used for any of said objects.

LEON E. GOETZ.

Subscribed and sworn to before me this 27th day of March, 1928.

[Seal]

Judge of the Municipal Court, Chicago, Illinois.

JOHN O. SBARBARO.

N. B.—Requisitions will not be issued on petitions alone. The petition must, in all cases, be accompanied by a certified copy of an indictment

found against the fugitive, or, in the absence of an indictment, a certified copy of a complaint made before and on file in the office of a magistrate, charging the fugitive with a crime. The petition and all other papers presented in connection with an application for a requisition must be in duplicate. The Secretary of State's fees, \$2.00, for issuing requisition, should accompany the petition.

I, I. L. Weaver, Acting County Judge of Cook County, State of Illinois, do hereby certify that the ends of justice require the return of Elid Stanitch, *alias* S. S. Millard.

I. L. WEAVER,
Acting County Judge.

[Endorsed]: "Petition for Requisition upon the Governor of _____.

_____, Messenger."

"The Secretary of State will issue a requisition in this case.

_____,
Governor."

N. B.—Do not fill out this part of the petition, but leave blank for Secretary of State. [32]

The Municipal Court of Chicago.

MCC37r.

In the Municipal Court of Chicago.

COMPLAINT FOR EXAMINATION.

State of Illinois,
City of Chicago,—ss.

Leon E. Goetz, of 810 So. Wabash Ave. *Street*,

Chicago, Ill., complains to Hon. Matthew D. Hartigan, one of the Judges of The Municipal Court of Chicago, and being duly sworn and examined, on his oath, states that Elid Stanitch, *alias* S. S. Millard, did on the 4th day of November, A. D. 1927, at the City of Chicago, County of Cook, in the State aforesaid, feloniously and fraudulently obtain from the U. S. Health Films, Inc., a corporation, then and there existing and organized under the laws of the State of Illinois, the sum of Twenty-five Thousand Dollars (\$25,000.00), in lawful money of the United States of America, the personal goods, money, and property of the said corporation by means and by use of the confidence game, with the felonious intent to then and there cheat and defraud the said corporation in violation of Section 98, Par. 256, Ch. 38, R. S., contrary to the statute in such case made and provided, and against the peace and dignity of the People of the State of Illinois.

LEON E. GOETZ.

This complainant further states that the said Elid Stanitch, *alias* S. S. Millard, committed such offense.

WHEREFORE, the said Leon E. Goetz prays a warrant may issue against the said Elid Stanitch, *alias* S. S. Millard, according to law.

LEON E. GOETZ. [33]

Subscribed and sworn to before me this 23d day of March, A. D. 1928.

MATTHEW D. HARTIGAN,

Judge of The Municipal Court of Chicago.

I have examined the within complaint and the

complainant and am satisfied there is probable cause for filing the same. Leave is hereby granted to file it, and it is ordered that a warrant issue against the accused.

Bail fixed at \$25,000.00 or cash deposit of \$———

MATTHEW D. HARTIGAN,

Judge of The Municipal Court of Chicago.

370 25 M 2-27.

[Endorsed]: "No. 239403.

"The Municipal Court.

"The People of the State of Illinois vs. ——

"Complaint for Examination.

"Witnesses: ——." [34]

The Municipal Court of Chicago.

MCC376.

State of Illinois,

City of Chicago,—ss.

In the Municipal Court of Chicago.

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

ELID STANITCH, *alias* S. S. MILLARD.

WARRANT FOR EXAMINATION.

The People of the State of Illinois to the Bailiff of
The Municipal Court of Chicago, and to All
Sheriffs, Coroners and Constables Within the
State, and to All Police Officers of Chicago—
GREETING:

WHEREAS, Leon E. Goetz has this day made complaint, under oath, before Hon. Matthew D.

Hartigan, one of the Judges of The Municipal Court of Chicago, which complaint has been filed with the undersigned Clerk of said court, and the Court having this day examined, under oath, said complainant and read the complaint filed herein, and it appearing to the Court that the offense of Confidence Game has been committed in the City of Chicago, in the State aforesaid, contrary to the form of the statute in such case made and provided, and the Court having found that there is probable cause for believing that Elid Stanitch, *alias* S. S. Millard, guilty of said offense, and the Court having ordered that a warrant issue out of this court for the arrest of said Elid Stanitch, *alias* S. S. Millard.

WE THEREFORE COMMAND YOU, forthwith to take the person of said Elid Stanitch, *alias* S. S. Millard, and him safely keep, so that you may have his body instanter before the Municipal Court of Chicago, in Branch 27 at 625 S. Clark Street, to answer to the People of the State of Illinois for and concerning said crime and to be dealt with according to law, and have you then and there this writ with an endorsement thereon as to the manner in which you may execute the same.
[35]

WITNESS: JAMES A. KEARNS, Clerk of our said Court and the seal thereof, at Chicago, aforesaid, this 23d day of March, A. D. 1928.

[Seal]

JAMES A. KEARNS,

Clerk of The Municipal Court of Chicago.

15M 6-26 11829.

[Endorsed]: "No. 239403.

“The Municipal Court.

“The People of the State of Illinois vs. Elid Stanitch, *alias* S. S. Millard.

“See complainant.

“Warrant for examination.

“Executed this writ by arresting within named _____ and bringing _____ body into court this _____ day of _____ 192____.

“The within named _____ after diligent search was not found _____, 192____.

Service \$_____.

“_____,

Bailiff.

“_____,

“Police Officer and *Ex-officio* Bailiff.

“_____ Precinct.

“Bail \$25,000.00.

“Cash deposit of \$_____.

“Leon E. Goetz, 810 S. Wabash Ave., U. S. Health Films Co. Harrison 4006. [36]

Municipal Court.

MCC225½.

State of Illinois,
City of Chicago,—ss.

AUTHENTICATION FOR EXTRADITION.

I, James A. Kearns, Clerk of the Municipal Court of Chicago, the same being a court of record in said city and state, do hereby certify the above and foregoing to be true, perfect and complete copies, respectively, of a complaint sworn to before

the Honorable Matthew D. Hartigan, one of the Judges of The Municipal Court of Chicago, and now on file in my office, and a warrant issued by me pursuant to the order of said court in a certain cause now pending in said court in which the People of the State of Illinois are Plaintiffs and Elid Stanitch, *alias* S. S. Millard, is defendant. And I further certify that said Matthew D. Hartigan was on the day said complaint and warrant bear date, and now is, one of the duly elected, commissioned and qualified Judges of said court and authorized by law to administer oaths, and that as such full faith and credit are due to all his official acts as such in all courts of record and elsewhere.

WITNESS my hand and the seal of said court, this twenty-seventh day of March, A. D. 1928.

[Seal] JEANNE M. WALLACE,
Clerk of the Municipal Court of Chicago.

UNITED STATES OF AMERICA.

State of Illinois,
City of Chicago,—ss.

I, Harry Olson, Chief Justice of The Municipal Court of Chicago, in said city and state do hereby certify that James A. Kearns, whose name is subscribed to the above certificate of [37] attestation, now is, and was at the time of signing and sealing the same, the Clerk of The Municipal Court of Chicago and Keeper of the Record and Seal thereof, duly elected and qualified to office; that full faith and credit are due all his official acts as such in all courts of record in the United States

and elsewhere; and, further, that his attestation is in due form of law and by the proper officer.

GIVEN under my hand at my Chambers in Chicago, this twenty-seventh day of March, A. D. 1928.

HARRY OLSON, (Seal)

Chief Justice of The Municipal Court of Chicago.

State of Illinois,

City of Chicago,—ss.

I, James A. Kearns, Clerk of The Municipal Court of Chicago, in said city and state, do hereby certify that the Honorable Harry Olson, whose name is subscribed to the above certificate of attestation, now is, and was at the time of signing and sealing the same, Chief Justice of The Municipal Court of Chicago, and was duly elected, commissioned and qualified to office; that full faith and credit are due all his official acts as such in all courts of record in the United States and elsewhere; and that his attestation is in due form of law and by the proper officer.

GIVEN under my hand and the seal of said court, at Chicago, this twenty-seventh day of March, A. D. 1928.

[Seal]

JEANNE M. WALLACE,

Clerk of The Municipal Court of Chicago.

3M 11-25 11392. [38]

State of Illinois,
County of Cook,—ss.

In the Municipal Court of Chicago.

Confidence Game.

PEOPLE OF THE STATE OF ILLINOIS

vs.

ELID STANITCH, *alias* S. S. MILLARD.

AFFIDAVIT OF LEON E. GOETZ, IN AID OF
THE EXTRADITION OF ELID STAN-
ITCH, *alias* S. S. MILLARD, DEFENDANT
AND FUGITIVE FROM JUSTICE.

Leon E. Goetz, being first duly sworn, upon oath deposes and says that he is a resident of the City of Chicago, County of Cook, and State of Illinois, and that he is General Manager for U. S. Health Films, Inc., a corporation; that on the 4th day of November, A. D. 1927, at the City of Chicago, County of Cook, and State of Illinois, the said Elid Stanitch, *alias* S. S. Millard, defendant and fugitive from justice, did unlawfully, willfully and feloniously obtain from the U. S. Health Films, Inc., a corporation, the sum of twenty-five thousand dollars (\$25,000), lawful money of the United States of America, the personal property of the U. S. Health Films, Inc., a corporation, by means and use of the confidence game, with intent to cheat and defraud—contrary to the statute in such case made and provided and against the peace and dignity of the

People of the State of Illinois, all of which will more fully appear from the complaint and warrant now on file in the Municipal Court of Chicago, copies of which are hereto attached and made a part hereof.

Affiant further says that he knows of his own personal knowledge that the said Elid Stanitch, *alias* S. S. Millard, defendant and fugitive from justice, was personally and physically present in the City of Chicago, County of Cook, and State of Illinois, on the 4th day of November, A. D. 1927, and that shortly thereafter he left the jurisdiction of the City of Chicago, County of Cook, and State of Illinois, and is now in Los Angeles, California, as affiant is informed from a telegram received by Michael Hughes, [39] Commissioner of Police at Chicago, Illinois, stating that the said Elid Stanitch, *alias* S. S. Millard, is in custody there.

Affiant further says that this prosecution is not brought for the purpose of collecting any debt, nor to enable anyone to ride free at the expense of the state, but is *bona fide* in every respect, and that when the said Elid Stanitch, *alias* S. S. Millard, defendant and fugitive from justice, is returned to the jurisdiction of the City of Chicago, County of Cook, and State of Illinois, affiant will appear in the Municipal Court of Chicago, Illinois, and prosecute him to the fullest extent of the law.

LEON E. GOETZ.

erty, in case it be not money,) be means and by use of the confidence game.

[Impression Seal] ROBERT E. CROWE,
State's Attorney of Cook County Illinois.

Revised Statutes of the State of Illinois,
1919, Criminal Code, Chap. 38, Sec. 98 and
99, page 1009. [41]

STATE OF ILLINOIS.

EXECUTIVE DEPARTMENT.

The Governor of the State of Illinois to All to
Whom These Presents Shall Come, GREET-
ING:

KNOW YE, That I have authorized and em-
powered and by these Presents do authorize and
empower

ROBERT E. CALKINS

as messenger and agent on the part of this State
to take and receive from the proper authorities of

STATE OF CALIFORNIA

ELID STANITCH, *alias* S. S. MILLARD

A

fugitive from justice, and convey HIM to the State
of Illinois, there to be dealt with according to Law.

IN WITNESS WHEREOF, I have hereunto
set my hand and caused to be affixed the Great
Seal of State, at the Capitol in the City of Spring-
field, this 4th day of April, A. D. 1928.

[Seal of the State of Illinois—Aug. 26th, 1818.]

LEN SMALL.

By the Governor:

LOUIS L. EMMERSON,
Secretary of State. [42]

STATE OF _____,
EXECUTIVE DEPARTMENT.

I, _____, Governor of _____, do hereby certify that I have this _____ day of _____, 192—, honored the requisition of the Governor of the State of Illinois for the surrender of _____, fugitive from justice of said last-named State, and have issued a warrant for _____ delivery to _____, the agent of said State of Illinois, whose authority to receive said fugitive is annexed hereto.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the _____ seal of _____ at the Capitol in _____ this _____ day of _____, 192—.

_____,
Governor.

State of Illinois,
County of _____,—ss.

I hereby certify that I have executed the within writ, by going after, receiving, and returning said fugitive and delivering —h— to the sheriff of _____ County this _____ day of _____, A. D. 192—.

_____,
Messenger.

REQUISITION
OF
THE GOVERNOR OF ILLINOIS
For

Charged With

Received ———, 192——.

Warrant Issued ———, 192——.

(40528—2M-10-25) 7

(Impression Seal)

Note: Impression Seal of each page prior to this page in Bill of Exceptions. [44]

TESTIMONY OF S. S. MILLARD, IN HIS
OWN BEHALF.

WHEREUPON the prisoner S. S. MILLARD, also known as Elid Stanitch, was sworn as a witness in his own behalf. He was then asked the following questions by his counsel, namely:

Q. Mr. Millard, you are the party named in the habeas corpus proceedings before the Court? To which question the witness answered in the affirmative.

Q. Did you on or about the 4th day of November, 1927, obtain from the U. S. Health Films, Incorporated, an Illinois corporation, the sum of \$25,000?

Mr. BECKER.—I object to that on the ground it is not a question that can be litigated in this

proceeding or put in issue; that the rendition warrant of the Governor of the State of California which has already been offered in evidence here by the petitioner himself, and also set up in the return and referred to in the petition, foreclosed any such inquiry; that it is presumed that the magistrate who issued the warrant acted advisably and on probable cause. The papers are all certified to as authentic by the Governor and that question is not open to inquiry here in this proceeding.

The COURT.—(Addressing Mr. Morris, the Counsel for the Prisoner.) For your record perhaps you had better state what you propose to show by the witness, so the record may be clear as to what is to follow.

Mr. MORRIS.—I propose to show by this witness the transaction upon which this warrant is based is purely and simply a civil matter.

The COURT.—It is well that you now make your complete offer so we may have the offer. Let the record show specifically what you expect to prove.

Mr. MORRIS.—We offer to prove, if the Court please, that the accused, S. S. Millard, is not a fugitive from justice and in that behalf to show by sufficient evidence that on the 4th day of November, 1927, he obtained by means of a perfectly legitimate business transaction with the U. S. Health Films, Inc., an Illinois corporation, and as a loan by the corporation to him the sum of twenty-five thousand dollars, for which he executed

his two certain promissory notes not yet matured, one in the sum of fifteen [45] thousand dollars and one in the sum of ten thousand dollars, fully secured by transfer to the corporation of property exceeding in value the amount loaned him. We propose to show that it is this perfectly legitimate business transaction, that is wrongfully, maliciously and wantonly and for the purpose solely of private revenge made the exclusive and only basis of the charge, the altogether false charge on which these extradition or more accurately these interstate rendition proceedings are based, in fraud and perversion of the Constitution and laws of the United States. We propose further to prove that the very matters connected with the making of the loan and the written contracts out of which the transaction was had between the parties, and the loan itself are involved in a suit in equity brought by Millard as plaintiff against the U. S. Health Films, Inc., in the United States District Court, Northern District of Illinois, Eastern Division, being case No. 8000 in that court and still pending there awaiting trial in due course and we will prove if permitted, that this suit was brought long prior to the accusation which is made the basis of these interstate rendition proceedings. We will show that according to the decisions of the Supreme Court of Illinois and particularly in the cases of *People vs. Santow*, 293 Ill. 430, *People vs. Kratz*, 311 Ill. 118, and *People vs. Heinsius*, 319 Ill. 168, 170, that the transaction in and by

which Millard obtained the loan of twenty-five thousand dollars, was and is a perfectly legitimate business transaction, no confidence game nor the obtaining of money by the use or means of what is commonly known as a confidence game. On the facts stated and which we here offer to prove in this habeas corpus case we will thereby show to this Court that Millard is not a fugitive from justice. That we have the legal right to prove the facts stated for this purpose, we cite to the Court the following authorities: Matter of Strauss, 197 U. S. 324, 332, 333; Pettibone vs. Nichols, 203 U. S. 192; McNichols vs. Pease, 207 U. S. 110; Ex parte Slauson, 73 Fed. 666; Tennessee vs. Jackson, 36 Fed. 258; In re Cannon, 47 Mich. 481, 486, 487; Ex parte Owens, 245 Pac. 68. [46]

Our purpose is not to bring to trial in this habeas corpus case any issue or question *or* guilt or innocence but to show that no such issue and no such question is possible and that the accusation itself is false and fraudulent, that it is without reasonable or probable cause and is in fraud and perversion of the Constitution and laws of the United States relative to interstate rendition and that the accused is not a fugitive from justice.

“By Mr. Becker, Counsel for Respondent Sheriff. It is understood, I believe, by this offer,—to make it perfectly clear on the record—that the petitioner is not offering to testify or prove that he was not actually in the State of Illinois at the times charged in the complaint and warrant involved in this proceeding, but simply because, as he did not commit

any offense and therefore he is not a fugitive. Am I correct?

By Mr. MORRIS, Counsel for Petitioner.—Yes.

By Mr. BECKER.—I renew my objections to the offer on the same grounds heretofore stated. It is not a permissible subject for inquiry in this proceeding. That matter must be tried out in the State courts of Illinois after the petitioner is brought there to answer. It is not a subject to inquiry here.”

Mr. Becker, Counsel for Respondent, also offered in evidence, and the Court received in evidence, Section 389 of Chapter 37 of the Criminal Code of the State of Illinois which reads as follows:

“There shall be established in and for the City of Chicago, a Municipal Court, which shall be a court of record and shall be styled a Municipal Court of Chicago”;

also Section 390 of said Chapter 37 of said Code, which reads as follows:

“The Municipal Court shall have jurisdiction in the following cases: * * * cases to be designated and hereinafter referred to as cases of the sixth class, which shall include (b) all proceedings for the arrest, examination, committment and bail, or persons charged with criminal offenses,”

also Section 442 of said Chapter 37 of said Code, which reads as follows: [47]

“The Practise and all proceedings in the

Municipal Court for the arrest, examination, committment and bail, of persons charged with criminal offenses shall be the same as near as may be as provided by law for similar proceedings before justices of courts of record and justices of the peace, with the following exceptions:

1. The complaint shall be filed with the Clerk of the Municipal Court, who, when ordered by the court, shall issue a warrant, etc.”; also Section 686 of Chapter 38 of said Code, which reads as follows:

“For the apprehension of persons charged with offenses except such as are cognizable exclusively by justices of the peace, any judge of a court of record in vacation as well as in term time, or any justice of the peace is authorized to issue process, etc.”

The COURT.—I will sustain the objection. To which ruling the petitioner and the said S. S. Millard then and there duly excepted.

That there was no evidence offered, introduced or received, or showing made in the case other than that herein stated.

Whereupon the case was argued on its merits and after argument, it was submitted to the Court for its decision, order and judgment, which the Court then rendered and entered, on the merits of the case, discharging the writ of habeas corpus and remanding the said S. S. Millard to the custody of the said sheriff, upon said rendition warrant, to which decision, order and judgment the

petitioner and the said S. S. Millard then and there duly excepted.

II.

The foregoing bill of exceptions is hereby settled and allowed and certified to be correct this 23 day of May, 1928.

WM. P. JAMES,
United States District Judge. [48]

IT IS HEREBY AGREED AND STIPULATED by and between Isador Morris, Attorney for S. S. Millard, and Tracy Chatfield Becker, Esq., Deputy District Attorney of Los Angeles County, State of California, in behalf of the District Attorney of said County, Counsel for the respondent, William I. Traeger, the Sheriff of the County of Los Angeles, State of California, that the foregoing bill of exceptions be settled and allowed and certified to be correct by the Honorable William P. James, Judge of the District Court of the United States of America, in and for the Southern District of California.

Dated at Los Angeles, California, this 23d day of May, 1928.

ISADOR MORRIS,
Attorney for S. S. Millard.

A. S. KEYES,
District Attorney of Los Angeles County, California.

TRACY C. BECKER,
Deputy District Attorney of Los Angeles County,
California,

Attys. for Respondent, William I. Traeger.

[Endorsed]: No. 9094-J.—Cr. In the District Court of the United States in and for the Southern District of California. In the Matter of the Petition of G. D. Collins for the Writ of Habeas Corpus in Behalf of S. S. Millard. Bill of Exceptions. Filed May 23, 1928. R. S. Zimmerman, Clerk. By B. B. Hansen, Deputy Clerk. [49]

At a stated term to wit, the January Term, A. D. 1928, of the District Court of the United States of America, within and for the Southern Division of the Southern District of California, held at the courtroom thereof, in the City of Los Angeles, on Wednesday, the 25th day of April, in the year of our Lord one thousand nine hundred and twenty-eight. Present: The Honorable WM. P. JAMES, District Judge.

[Title of Court and Cause.]

MINUTES OF COURT—APRIL 25, 1928—
HEARING.

This matter coming on for hearing on return of writ; G. D. Collins, petitioner, being present; S. S. Millard being present, and Isadore Morris, Esq., appearing as his attorney; Tracy C. Becker, Deputy District Attorney of Los Angeles County, appearing as counsel for the respondent; and Ray E. Woodhouse, being present as official stenographic reporter of the testimony and the proceedings; respective counsel state that they are ready to pro-

ceed, and it is by the Court ordered that the hearing be proceeded with;

G. D. Collins reads original warrant of rendition, in open court, copy of which is attached to and is a part of return filed by respondent, whereupon,

Elid Stanich, also known as S. S. Millard, is called and sworn and testifies on direct examination conducted by Isadore Morris, Esq., his attorney, and said attorney makes offer of proof, and an objection by the respondent is sustained thereto, and an exception is allowed to this ruling, and thereupon,

G. D. Collins argues on matters arising from the face of the warrant of rendition; and Tracy C. Becker, Esq., offers; and there is admitted in evidence, without objection, a certified copy of extradition proceedings, certified by the Secretary of the State of California, and the same is marked Respondent's Exhibit No. 1; and G. D. Collins, Esq., argues further, citing authorities, whereupon further argument is made by Attorney Becker, who cites authorities in support thereof, and [50]

Petitioner and respondent submit this matter at this time for ruling of the Court, and

At the hour of 11:30 o'clock A. M., the Court instructs the Clerk that order be entered, at the hour of 4 o'clock P. M. discharging writ of habeas corpus, and remanding S. S. Millard into the custody from which he came, and that the record may show that an exception is allowed to this ruling.

Now, at the hour of 4 o'clock P. M., it is by the Court ordered that writ of habeas corpus herein is

discharged, and Elid Stanich, also known as S. S. Millard, is remanded into the custody from which he came, and an exception is allowed to the making of this order. [51]

[Title of Court and Cause.]

NOTICE OF APPEAL.

To the Said William I. Traeger, as Sheriff of the
County of Los Angeles, State of California,
Appellee:

Notice is hereby given you that in the above-entitled matter the therein named G. D. Collins and S. S. Millard do hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final order, decision and judgment of the said United States District Court in and for the Southern District of California, made and entered in the said matter on the 25th day of April, 1928, and that the certified transcript of record will be filed in said Appellate Court within thirty days from the filing of this notice.

You are further notified that said appeal operates as a supersedeas and prevents you from transferring or removing or surrendering the custody of the said S. S. Millard until after the final decision of the case on the appeal. (Judicial Code U. S., sec. 465; Revised Stat. U. S., sec. 766; Act of Feb. 13, 1925, c. 229, sec. 6, 43 Stat. 936, 940; Rule 33 of United States Circuit Court of Appeals, Ninth Circuit.)

A copy of the assignment of errors on said appeal is herewith served upon you.

Respectfully,

G. D. COLLINS,

Petitioner *in pro. per.*

Dated April 25th, 1928, at Los Angeles, California.

ISADOR MORRIS,

Attorney for Said S. S. Millard.

[Endorsed]: No. 9094—J.—Cr. In the District Court of the United [52] States in and for the Southern District of California. In the Matter of the Petition of G. D. Collins for the Writ of Habeas Corpus in Behalf of S. S. Millard. G. D. Collins and S. S. Millard, Appellants, vs. William I. Traeger, as Sheriff of the County of Los Angeles, State of California, Appellee. Notice of Appeal. Filed Apr. 25, 1928. R. S. Zimmerman, Clerk. By B. B. Hansen, Deputy Clerk. [53]

[Title of Court and Cause.]

AFFIDAVIT OF SERVICE OF NOTICE OF
APPEAL AND OF ASSIGNMENT OF
ERRORS AND OF CITATION.

State of California,
County of Los Angeles,—ss.

Isador Morris, being duly sworn, deposes and says that he is attorney herein for the appellant, S. S. Millard; that on the 25th day of April, 1928,

in the city of Los Angeles, County of Los Angeles, State of California, he served the notice of appeal in the above-entitled cause upon Asa Keyes, Esq., the District Attorney of said County of Los Angeles, attorney herein for William I. Traeger, Sheriff of Los Angeles County, the appellee in said cause, by then and there delivering to and leaving with Forrest E. Murray, Esq., Deputy District Attorney, and during the absence of said District Attorney from his office in said City of Los Angeles a true and correct copy of said notice of appeal and of the assignment of errors on file herein. That on said 25th day of April, 1928, at said City of Los Angeles, affiant also served upon William I. Traeger, Esq., the sheriff of said County of Los Angeles, a copy of said notice of appeal and a copy of the said assignment of errors and a copy of the citation on file herein by delivering to and leaving with Eugene Biscailuz, the under-sheriff, said copies of said papers, the said William I. Traeger being absent from his office at said time.

ISADOR MORRIS.

Subscribed and sworn to before me this 26th day of April, 1928.

[Seal]

L. A. BLOOM,

Notary Public in and for the County of Los Angeles, State of California. [54]

[Endorsed]: No. 9094-J.—Cr. In the District Court of the United States, in and for the Southern District of California. In the Matter of the Petition of G. D. Collins for the Writ of Habeas Corpus

in Behalf of S. S. Millard. G. D. Collins and S. S. Millard, Appellants, vs. William I. Traeger, as Sheriff of the County of Los Angeles, State of California, Appellee. Affidavit of Service of Notice of Appeal and of Assignment of Errors and of Citation. Filed Apr. 26, 1928. R. S. Zimmerman, Clerk. By B. B. Hansen, Deputy Clerk. [55]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Afterwards, to wit, on the 25th day of April, 1928, in this same term, before the Honorable Judges of United States Circuit Court of Appeals for the Ninth Circuit, come the said G. D. Collins, petitioner, *in propria personam*, and the said S. S. Millard, appellants in the above-entitled matter and cause, and say there is manifest error in the record and proceedings therein, in this, to wit:

I.

That the said United States District Court in and for the Southern District of California erred in its decision, refusing to discharge the said S. S. Millard from the custody and imprisonment alleged in the petition for the writ of habeas corpus on file in said court in said matter above-entitled and numbered 9094-J.—Cr. therein.

II.

That the said United States District Court erred in its decision that the said S. S. Millard is not illegally imprisoned and is not unlawfully restrained

of his liberty in violation of section 2 of Article IV of the Constitution of the United States.

III.

That the said United States District Court erred in its decision that the said S. S. Millard is not illegally imprisoned nor unlawfully restrained of his liberty in violation of the "due process of law" clause in the Fourteenth Amendment of the [56] Constitution of the United States.

IV.

That the said United States District Court erred in deciding the case adversely to the said petitioner and the said Millard.

V.

That the said United States District Court erred in deciding that the said S. S. Millard is not illegally imprisoned and is not unlawfully restrained of his liberty in violation of section 5278 of the Revised Statutes of the United States.

VI.

That the said United States District Court erred in remanding the said S. S. Millard to the custody designated in the final order made and entered by said Court on said writ of habeas corpus, and in not ordering that the said Millard be discharged from custody and restored to his liberty.

VII.

That the said United States District Court erred in its ruling excluding the petitioner from prosecuting said habeas corpus proceedings to final judgment in said court and in preventing him from

doing so *in propria personam* as the petitioner therein.

VIII.

That the said United States District Court erred in its ruling excluding the said petitioner from supporting the averments of his answer to the return to the writ of habeas corpus by proof.

IX.

That the said United States District Court erred in its ruling denying the motion of said petitioner based upon the petition, return, and answer to the return, on file herein, for judgment discharging said Millard from the custody and imprisonment alleged in said petition and return and restoring said Millard to his liberty.

X.

That the said United States District Court erred in its ruling excluding proof and evidence offered by said Millard to show that the rendition proceedings are in violation of the [57] Constitution and laws of the United States relative to interstate rendition and that said proceedings are not *bona fide* and that said Millard is not a fugitive from justice.

XI.

Whereas, by the law of the land, the said S. S. Millard should have been ordered discharged by said United States District Court from the custody and imprisonment alleged in the said petition for the writ of habeas corpus, and by the Court order restored to his liberty.

XII.

WHEREFORE, the said appellants, the said

G. D. Collins and S. S. Millard pray that the said final order, decision and judgment of the said United States District Court in and for the Southern District of California be reversed with direction to discharge the said Millard from said custody and imprisonment and restore him to his liberty. That the said appellants be granted such other and further relief as may be just and in conformity with law.

Dated this 25th day of April, 1928, at the city of Los Angeles, County of Los Angeles, State of California.

G. D. COLLINS,

Appellant *in pro. per.*

ISADOR MORRIS,

Attorney for Appellant S. S. Millard.

[Endorsed]: In the United States Circuit Court of Appeals for the Ninth Circuit. In the Matter of the Petition of G. D. Collins for the Writ of Habeas Corpus in Behalf of S. S. Millard. No. 9094—J.—Cr. United States District Court, Southern District of California. G. D. Collins and S. S. Millard, Appellants, vs. William I. Traeger, as Sheriff of the County of Los Angeles State of California, Appellee. Assignment of Errors. Filed Apr. 25, 1928. R. S. Zimmerman, Clerk. By B. B. Hansen, Deputy Clerk. [58]

[Title of Court and Cause.]

BOND FOR COSTS ON APPEAL.

WHEREAS, heretofore, to wit, on the 25th day of April, 1928, the above-named G. D. Collins and S. S. Millard filed in said United States District Court in and for the Southern District of California and in the Clerk's office of said court their notice of appeal and served the same on the appellee William I. Traeger as Sheriff of the County of Los Angeles, State of California,—

NOW, THEREFORE, we the undersigned sureties, residents and householders in said county of Los Angeles, do hereby jointly and severally promise, agree and undertake to and with the said appellee in the penal sum of two hundred and fifty dollars, that the said appellants will prosecute their appeal to effect and if they fail to make their plea good, shall answer all costs.

IN WITNESS WHEREOF we have hereunto set our hands and seals this 11th day of May, 1928.

NELLIE L. WALSH. (Seal)

M. S. McENIRY. (Seal)

[59]

United States of America,
Southern District of California,
County of Los Angeles,—ss.

Nellie L. Walsh and M. S. McEniry, being duly sworn, each for himself deposes and says that he is one of the sureties whose name is subscribed to the foregoing bond and undertaking; that he is a

householder in and resident of said county of Los Angeles; that he is worth the sum of two hundred and fifty dollars over and above all his debts and liabilities exclusive of property exempt from execution.

NELLIE L. WALSH.
M. S. McENIRY.

Subscribed and sworn to before me this 11th day of May, 1928.

[Seal] HENRY W. SHAW,
Notary Public in and for the County of Los Angeles,
State of California.

The foregoing bond is hereby approved this 11 day of May, 1928.

WM. P. JAMES,
United States District Judge.

[Endorsed]: No. 9094-J.—Cr. In the District Court of the United States in and for the Southern District of California. In the Matter of the Petition of G. D. Collins for the Writ of Habeas Corpus in Behalf of S. S. Millard. G. D. Collins and S. S. Millard, Appellants, vs. William I. Traeger, as sheriff of the County of Los Angeles, State of California, Appellee. Bond for Costs on Appeal. Filed May 11, 1928. R. S. Zimmerman, Clerk. By B. B. Hansen, Deputy Clerk. [60]

[Title of Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF RECORD
ON APPEAL.

To the Clerk of Said Court:

Sir: Please issue transcript on appeal in above-entitled matter, consisting of petition for writ of habeas corpus, order granting writ, the writ of habeas corpus, return to writ, answer to return and bill of exceptions, also order and judgment remanding prisoner, also notice of appeal and affidavit of service, also assignment of errors, also citation, also clerk's certificate to record.

Respectfully,

G. D. COLLINS,

Petitioner *in pro. per.*

ISADOR MORRIS,

Attorney for Said Millard.

Dated April 25, 1928.

[Endorsed]: No. 9094—J—Cr. U. S. District Court, Southern District of California. In Re Matter of the Petition of G. D. Collins for the Writ of Habeas Corpus in Behalf of S. S. Millard. Praecipe for Record on Appeal. Filed Apr. 25, 1928. R. S. Zimmerman, Clerk. By B. B. Hansen, Deputy Clerk. [61]

CITATION.

United States of America,—ss.

To William I Traeger, the Sheriff of the County of
Los Angeles, State of California, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be held at the City of San Francisco, in the State of California, on the 25th day of May, A. D. 1928, pursuant to an appeal filed in the Clerk's office of the District Court of the United States, in and for the Southern District of California, in that certain habeas corpus case in said District Court of the United States and numbered 9094—J.—Cr. therein, and wherein S. S. Millard, also known as and called Elid Stanich, is appellant and wherein G. D. Collins is also appellant and you are the appellee as said sheriff and hold in your official custody as sheriff the said S. S. Millard, or Elid Stanich, and you are hereby required to show cause, if any there be, why the final order and judgment of the United States District Court in and for the Southern District of California in the said matter mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf. It is further ordered that your said custody of the said S. S. Millard be not disturbed pending said appeal unless said Millard be released on bail as provided in Rule 33 of the said United States Circuit Court of Appeals for the Ninth Circuit.

WITNESS, the Honorable WILLIAM P. JAMES, United States District Judge for the Southern District of California; this 25th day of April, A. D. 1928, and of the Independence of the United States, the one hundred and fifty-second.

WM. P. JAMES,
U. S. District Judge for the Southern District of
California. [62]

[Endorsed]: Filed Apr. 25, 1928.

[Title of Court and Cause.]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO RECORD ON APPEAL.

I, R. S. Zimmerman, Clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing volume containing 61 pages, numbered from 1 to 61, inclusive, to be a full, true and correct typewritten copy of the complaint and petition for the writ of habeas corpus, order granting writ, writ of habeas corpus, return to writ of habeas corpus, answer of petitioner to return to writ of habeas corpus, bill of exceptions, minute order and judgment remanding, notice of appeal, affidavit of service of notice of appeal, assignment of errors, bond for costs of appeal, praecipe for transcript of record on appeal, and the original citation; and that the same together constitute the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I DO FURTHER CERTIFY that the fees of the Clerk for preparing, correcting and certifying the foregoing record on appeal amount to \$23.00, and that said amount has been paid me by the appellant herein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the District Court of the United States of America, in and for the Southern District of California, Southern Division, this 14th day of June, in the year of our Lord one thousand nine hundred and twenty-eight and of our Independence the one hundred and fifty-second.

[Seal]

R. S. ZIMMERMAN,

Clerk of the District Court of the United States of America, in and for the Southern District of California. [63]

[Endorsed]: No. 5485. United States Circuit Court of Appeals for the Ninth Circuit. G. D. Collins and S. S. Millard, Appellants, vs. William I. Traeger, as Sheriff of the County of Los Angeles, State of California, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Southern District of California, Southern Division.

Filed June 25, 1928.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

